



Department of Justice

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(202) 514-2007
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**NEW YORK FOOD COMPANY EXECUTIVE INDICTED FOR BID RIGGING,
MULTI-MILLION DOLLAR FRAUD AND TAX CRIMES, AND OBSTRUCTION**

WASHINGTON, D.C. -- A Manhattan federal grand jury today indicted a former New York City food company executive on bid rigging, multi-million dollar fraud and tax conspiracies, and obstruction of justice charges for the supply and delivery of food in New York and New Jersey, the Department of Justice announced.

The seven-count indictment charged Melvyn Merberg, of Manhattan, with participating in four separate schemes to rig bids on produce, dairy, frozen vegetables and other related items supplied to the New York City Department of Citywide Administrative Services (DCAS), the Nassau County (NY) Department of General Services, the Newark (NJ) Public Schools, and Odyssey House Inc. New York City DCAS was supplied produce, Nassau County DGS was supplied produce and dairy products, Newark Public Schools was supplied produce and frozen vegetables, and Odyssey House was supplied food and related items.

The indictment also charged Merberg with one count of conspiring to defraud Odyssey House Inc. of more than \$1 million in a kickback and fraud scheme, one count of conspiracy to violate various federal tax laws in connection with a multi-million dollar check-cashing scheme, and one count of obstruction of justice for causing the destruction of incriminating computer records that had been subpoenaed by the grand jury. Until recently, Merberg was the chief executive officer of Jitney Ltd., a Queens, New York food company.

"Today's charge is the latest in the Antitrust Division's crackdown on anticompetitive practices in the food distribution industry," said A. Douglas Melamed, Acting Assistant Attorney

General in charge of the Department's Antitrust Division. "The Antitrust Division will continue to prosecute aggressively all cases where taxpayers have been cheated out of the benefits of competition."

Today's indictment arose from a federal antitrust investigation of bid rigging, bribery, fraud, and tax-related offenses in the food distribution industry. To date, 12 individuals and seven companies have pled guilty to charges as part of the ongoing investigation.

In May and June 2000, 22 individuals and 13 food companies were charged with rigging bids for the supply and delivery of more than \$210 million of food to the New York City Board of Education. Some of those defendants were also charged with participating in bid-rigging conspiracies victimizing the New York City hospitals and jails, the Newark Public Schools, and the Nassau County Department of General Services.

In July 2000, Merberg was arrested by FBI and IRS agents for conspiring to defraud Odyssey House. At that time, he was released on a \$1 million bond. Jitney Ltd. and Merberg's spouse, Pamela Merberg, pled guilty to bid rigging, fraud, and tax charges in September 2000.

In September 1999, Aaron Lugo, the former director of operations at Odyssey House, pled guilty to bid rigging, fraud, and tax charges.

The New York City DCAS is the agency that conducts competitive bidding on behalf of other New York City entities, including those that run the public hospitals and jails. The Nassau County (NY) Department of General Services performs a similar function for Nassau County agencies. Odyssey House is a not-for-profit substance abuse rehabilitation organization headquartered in Manhattan.

In today's indictment against Merberg, the four bid-rigging counts, which violate 15 U.S.C. § 1, each carry a maximum penalty of three years imprisonment and a \$350,000 fine. The

two conspiracy counts, which violate 18 U.S.C. § 371, each carry a maximum penalty of five years imprisonment and a \$250,000 fine. The obstruction of justice count, which violates 18 U.S.C. § 1503, carries a maximum of 10 years imprisonment, a \$250,000 fine or both. All of the maximum fines may be increased to twice the gain derived from the crime or twice the loss suffered by the victim of the crime, if either of those amounts is greater than the statutory maximum fine. Upon conviction, the court will determine the appropriate sentences under the U.S. Sentencing Guidelines.

The ongoing investigation is being conducted by the Antitrust Division's New York Field Office, with the assistance of the Federal Bureau of Investigation and Internal Revenue Service Criminal Investigation Division.

Anyone with information concerning bid rigging, bribery, tax offenses, or fraud in the food distribution industry or concerning bid rigging on any government contract should contact the New York Field Office of the Antitrust Division at (212) 264-0679 or the New York Division of the FBI at (212) 384-3252.

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